NAIROBI PROTOCOL TO THE FLORENCE AGREEMENT

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

THE PROTOCOL TO THE AGREEMENT OF THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS (TREATY DOC. 97-2)

OCTOBER 20, 1981

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NAIROBI PROTOCOL TO THE FLORENCE AGREEMENT

TUESDAY, OCTOBER 20, 1981

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 4221, Dirksen Senate Office Building, Hon. Charles McC. Mathias, presiding.

Present: Senator Mathias.

Senator MATHIAS. The committee will come to order.

This is a hearing of the Committee on Foreign Relations to receive testimony on the protocol to the agreement on the importation of educational, scientific, and cultural materials. We will hear today from Ernest B. Johnston, Deputy Assistant Secretary for Business and Economic Affairs of the Department of State.

Mr. Johnston, I understand that you have a prepared statement. We will be glad to receive that for the record and have you summarize it in such manner as you might wish.

Mr. JOHNSTON. It is very short. I think I can get through it in 10 minutes, Senator.

Senator MATHIAS. Fine. Please go ahead any way you wish to proceed.

STATEMENT OF ERNEST B. JOHNSTON, JR., ASSISTANT DEPUTY SECRETARY FOR BUSINESS AND ECONOMIC AFFAIRS, DEPARTMENT OF STATE

Mr. JOHNSTON. Mr. Chairman, I appreciate this opportunity to present the views of the Department of State on Senate resolution of advice and consent to ratification of the Nairobi protocol to the Florence Agreement. The State Department believes that the Nairobi protocol, if suitably implemented by the United States and other major trading countries, will provide important benefits to U.S. interests.

These benefits include lower costs to the American consumer of books, films, sound recordings, and other educational, scientific, and cultural materials, expanded markets abroad for U.S. exports of these same products, and lower cost materials for the blind and other handicapped people in the United States.

Mr. Chairman, I would like to explain why Senate advice and consent to ratification of this international agreement is in the interest of the United States.

The Nairobi protocol modifies an earlier agreement, the Florence Agreement of the Importation of Educational, Scientific, and Cultural Materials, adopted in 1950. The United States, along with our principal trading partners, is a party to the Florence Agreement, which seeks generally to improve the international free flow of educational, scientific, and cultural materials.

The agreement provides principally for duty-free exports of such materials as books, works of art, and collectors' pieces, publications and documents, visual and auditory materials, scientific instruments and apparatus, and articles for the blind.

The United States put the provisions of the Florence Agreement into effect in 1966 through legislation. In November 1976 in Nairobi the UNESCO General Conference, with the United States participating, adopted a draft protocol amending and substantially expanding the coverage of the Florence Agreement.

On March 1, 1977, the protocol was opened for signature at the United Nations to all countries party to the Florence Agreement. The Nairobi protocol modifies and extends the provisions of the Florence Agreement in a number of ways; principally, by adding products eligible for duty-free treatment and by dropping the requirement that several products be imported by institutions or organizations approved for that purpose by their governments.

The basic provisions are those exempting from customs duties the materials listed in nine annexes. The annexes, which include and broaden the scope of the annexes to the Florence Agreement, involve the following categories:

Annex A covers books, publications, and documents;

Annex B covers works of arts and collectors' pieces of an educational, scientific, or cultural character;

Annex C contains two alternative versions covering visual and auditory materials such as film and sound recordings;

Annex D covers scientific instruments or apparatus;

And Annex E covers articles for the blind and other handicapped people.

The United States has decided to exercise the broader option of annex C–1, but not to adopt three additional and optional annexes covering sports equipment, musical instruments, and material and equipment used for the production of books, publications, and documents. We decided that adopting these annexes would lead to an increase in imports with a potential for injuring domestic industry and without providing sufficient offsetting benefits.

A number of private-sector groups, including several industry associations and organizations for the handicapped, have expressed to us their support for the United States becoming a party to the protocol. The American recording, publishing, and motion picture industries figure prominently among these groups. I understand that several of these groups will give you their views in support of the protocol.

In addition, however, concerned Federal agencies, particularly those involved in questions of trade policy, have examined the protocol and concluded that U.S. adoption, if coupled with suitable implementing legislation, would strongly be in the national interest.

The State Department believes that American consumers and industry would benefit significantly from the lower cost imports fostered by the protocol. Moreover, when other major trading countries adopt the protocol and provide satisfactory reciprocal benefits, important markets for U.S. exports will be opened. U.S. exports of these products, including motion pictures and certain kinds of books, are highly competitive and would benefit from lower foreign duties.

We have examined the other side of the coin, the potential for injury to domestic industry from increased imports of products covered by the protocol. The major industries that would be affected by liberalized imports under the agreement have not expressed serious concern about this possibility.

We believe that risks along these lines are minimal and ought not to lead the Senate to withhold its advice and consent. Liberal adoption and implementation by a large number of nations can substantially benefit U.S. exporters; thus reciprocity is important.

We believe that our own liberal implementation of the protocol could only be justified if our exporters receive general reciprocity from other important countries. Therefore, the administration plans to deposit the agreement's instrument of ratification only after the President has determined that enough other countries will give adequate reciprocal duty-free treatment to our exports.

In the meantime, we would propose implementing legislation to allow the United States to implement all or portions of the protocol on a temporary basis. Although implementing legislation has not received formal interagency clearance and thus does not yet reflect a formal administration position, we intend to propose legislation that would provide duty-free treatment to certain articles covered by the protocol as soon as the agreement comes into force for the United States; in other words, 6 months after the United States deposits its instrument of ratification.

Until the protocol comes into force, temporary duty-free treatment would be accorded to articles for the blind or other handicapped persons for a 2½-year period beginning 1 month from date of enactment of the bill. In addition, the President would be given the discretionary authority to grant similar temporary duty-free treatment for articles in other categories covered by the bill.

All temporary duty-free treatment accorded by the bill would lapse at the end of 2½ years, unless the bill as a whole had become permanently effective after deposit of the U.S. instrument of ratification based on a Presidential determination of adequate reciprocity from other countries.

Our proposed legislation would provide duty-free treatment for articles in some other categories which is beyond the strict requirements of the protocol. In these two categories, articles for the blind and other handicapped and tools for scientific instruments or apparatus, we see a particular need to insure that U.S. industries and exporters are not harmed by our voluntary and unilateral granting of duty-free treatment above and beyond the provisions of the protocol.

For this reason, our proposed legislation would authorize the President to place conditions upon or to narrow the scope of the duty-free treatment accorded under the bill for articles in these two categories to that strictly provided in the protocol.

In summary, Mr. Chairman, I urge the committee to give favorable consideration to the protocol and recommend that the Senate give its advice and consent to ratification.

I will be happy to answer any questions that you have.

[Mr. Johnston's prepared statement follows:]

PREPARED STATEMENT OF ERNEST B. JOHNSTON, JR.

Mr. Chairman, I appreciate this opportunity to present the views of the Department of State on a Senate resolution of advice and consent to ratification of the Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials, known as the "Nairobi Protocol." The State Department believes the Nairobi Protocol, if suitably implemented by the United States and other major trading countries, will provide important benefits to U.S. interests. These benefits include lower costs to the American consumer of books, films, sound recordings, and other educational, scientific and cultural materials; expanded markets abroad for U.S. exports of these same products; and lower cost materials for the blind and other handicapped in the United States. Mr. Chairman, I would like to explain in my testimony today why Senate advice and consent to ratification of this international agreement is in the interest of the United States.

The Nairobi Protocol modifies an earlier agreement, the Agreement on the Importation of Educational, Scientific and Cultural Materials. This Agreement, known as the Florence Agreement, was adopted by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) at its General Conference of July 1950, held in Florence, Italy. The United States, along with our principal trading partners, is a party to the Florence Agreement, which seeks generally to improve the international free flow of educational, scientific and cultural materials. The agreement provides principally for the exemption from duty for imports of such materials, including books, publications and documents; works of art and collectors' pieces; visual and auditory materials; scientific instruments and apparatus; and articles for the blind. The United States put the the provisions of the Florence Agreement into effect in 1966 through legislation.

In November 1976, at Nairobi, Kenya, the UNESCO General Conference, with the United States participating, adopted a draft protocol amending and substantially expanding the coverage of the Florence Agreement. On March 1, 1977, the Protocol was opened for signature at the United Nations to all countries party to the Florence Agreement.

The Nairobi protocol modifies and extends the provisions of the Florence Agreement in a number of ways, principally by adding products eligible for duty-free treatment and by dropping the requirement that several products be imported by institutions or organizations approved for that purpose by the host government. The basic provisions are those exempting from customs duties the materials listed in nine Annexes. The Annexes, which include and broaden the scope of the annexes to the Florence Agreement, cover the following categories of products:

Annex A covers books, publications and documents;

Annex B covers works of art and collectors' pieces of an educational, scientific, or cultural character;

Annex C contains two alternative versions covering visual and auditory materials such as film and sound recordings;

Annex D covers scientific instruments or apparatus; and

Annex E covers articles for the blind and other handicapped.

The United States has decided: (1) to exercise the broader option of Annex C1, but (2) not to adopt three additional and optional annexes covering sports equipment, musical equipment, and materials and equipment used for the production of books, publications, and documents. We decided that adopting these annexes would lead to an increase of imports with a potential for injuring domestic industry, and without providing sufficient offsetting benefits.

A number of private sector groups, including several industry associations and organizations for the handicapped, have expressed to us their support for the U.S. becoming a party to the protocol. The U.S. recording, publishing, and motion picture industries figure prominently among these groups. I understand that spokesmen for several of these groups will testify today in support of the protocol. In addition, however, concerned Federal Agencies, particularly those involved in questions of trade policy, have examined the protocol and concluded that U.S. adoption, if coupled with suitable implementing legislation, would

strongly be in the national interest. The State Department in particular believes that U.S. consumers and industry would benefit significantly from the lower cost imports fostered by the protocol; moreover, when other major trading countries adopt the protocol and provide satisfactory reciprocal benefits, important markets for U.S. exports will be opened. U.S. exports of these products, including motion pictures and certain kinds of books, are highly competitive and would benefit from lower foreign duties.

We have examined the other side of the coin: the potential for injury to domestic industry from increased imports of products covered by the Protocol. The major industries that would be affected by liberalized imports under the agreement have not expressed serious concern about this possibility. We believe that risks along these lines are minimal and ought not to lead the Senate to withhold its advice and consent.

Liberal adoption and implementation by a large number of nations can substantially benefit U.S. exporters, thus reciprocity is important. We believe that our own liberal implementation of the Protocol could only be justified if our exporters receive general reciprocity from other important nations. Therefore, the Administration plans to deposit the agreement's instrument of ratification only after the President has determined that adequate reciprocal duty-free treatment to our exports will be provided by other countries.

In the meantime, the U.S. would implement all or portions of the Protocol on a temporary basis. Although implementing legislation has not received formal interagency clearance, and thus does not yet reflect a formal administration position, we intend to propose legislation that would provide duty-free treatment to certain articles covered by the Protocol as soon as the agreement comes into force for the United States—i.e., six months after the U.S. deposits its instrument of ratification. Until the Protocol comes into force, temporary duty-free treatment would be accorded to articles for the blind or other handicapped persons for a two-and-one-half year period beginning one month from the date of enactment of the bill. In addition, the President would be given discretionary authority to grant similar temporary duty-free treatment for articles in some other categories covered by the bill. All temporary duty-free treatment accorded by the bill would lapse at the end of the two and one-half year period unless the bill as a whole had become permanently effective after deposit of the U.S. instrument of ratification based on a Presidential determination of adequate reciprocity from other countries.

Our proposed legislation would provide duty-free treatment for articles in some of the categories which is beyond the strict requirements of the Protocol. In these two categories—articles for the blind and other handicapped and tools for scientific instruments or apparatus—we see a particular need to ensure that U.S. industries and exporters are not harmed by our voluntary and unilateral granting of duty-free treatment above and beyond the provisions of the Protocol. For this reason, our proposed legislation would authorize the President to place conditions upon or to narrow to the strict obligations of the Protocol the scope of the duty-free treatment accorded under the bill for articles in these two categories.

In summary, Mr. Chairman I urge the committee to give favorable consideration to the Protocol, and recommend that the Senate give its advice and consent to ratification. I would be happy to answer any questions you might have.

Senator MATHIAS. Mr. Johnston, you cited certain companies and organizations who favor the protocol. Are you aware of any who are opposed to it?

Mr. JOHNSTON. I understand from the Commerce Department that there is some concern amongst the manufacturers of scientific instruments, but I do not have a list of companies nor the names of organizations who are opposed to the bill.

Senator MATHIAS. But the major media organizations in this country are generally in support?

Mr. JOHNSTON. We understand that the American Library Association, the Recording Industry Association of America, the Motion Picture Association of America—I can give you a list. I have about eight.

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Senator MATHIAS. We would appreciate that list for the record.

Mr. JOHNSTON. Certainly. I do not think I am authorized to speak for them, but this is the indication that we have.

[The information referred to follows:]

ORGANIZATIONS SUPPORTING U.S. ADOPTION OF THE NAIROBI PROTOCOL

American Library Association.
Recording Industry Association of America, Inc.
Motion Picture Association of America, Inc.
American National Standards Committee.
Association of American Publishers.
National Micrographics Association.
The Association of American University Presses, Inc.
American Foundation for the Blind.

Senator MATHIAS. The committee has received in writing the views of a number of organizations who also are in support of the Nairobi Protocol. Those will be entered in the record at the appropriate point.[1]

In any case, your understanding is this is their position. If they consult the record and disagree with it, they can speak up.

Mr. JOHNSTON. Yes.

Senator MATHIAS. Which of these proposed annexes will probably produce the greatest economic benefit to this country?

Mr. JOHNSTON. Mr. Chairman, I cannot answer that question directly. When we were considering what the position of the United States would be, we took a reading on the basis of 1979 trade figures in regard to the total amount of imports whose duty status would change as a result of this protocol. My understanding is that it was roughly in the neighborhood of about $50 million worth of goods that would come into the United States.

Now, the duties on most of these goods are relatively small. So what we would be talking about for the people who would benefit on the import side would be a fraction of that $50 million. We do not have figures on how much we would expect our exports to increase as a result of other countries participating in the protocol.

Senator MATHIAS. Do I understand that you are advising against Annexes F, G, and H?

Mr. JOHNSTON. Yes, sir. We looked at those, and although they are limited—for example, Annex F is sports equipment exclusively for amateur sports associations and Annex G is for musical instruments that were intended solely for cultural institutions or music schools—we still felt that the benefits to the United States possibly would be offset by possible troubles that we might cost our own industry on this. So we decided that we would not support those annexes.

Senator MATHIAS. How about the other annexes?

Mr. JOHNSTON. Those are the annexes that we would not support. We would thus support the other annexes: Annex A, which talks about books, publications, and documents. Annex B, which talks about works of arts and collectors' pieces of an educational, scientific, or cultural character. Annex C, which has two versions: C–1, visual and auditory materials, which is more open than the alternative version, C–2. Annex D, scientific instruments and apparatus. And Annex, E, articles for the blind and other handicapped persons.

[1] See p. 39.

Senator MATHIAS. Would there be a need for legislation to implement the treaty if we approved the protocol?

Mr. JOHNSTON. Mr. Chairman, I am not a constitutional expert, and I do not know whether implementing legislation would be strictly needed. But we would like to propose implementing legislation, because we would like to withhold depositing our ratification for some time until we see that the United States will get adequate reciprocity.

Thus, we would propose, as I mentioned in my statement, implementing legislation which would allow us to put into effect some of the annexes before we deposited our instrument of ratification.

Senator MATHIAS. Is that not a rather unusual procedure?

Mr. JOHNSTON. Yes, sir, it is an unusual procedure.

Senator MATHIAS. Is it a unique procedure?

Mr. JOHNSTON. I do not think it is unique.

Senator MATHIAS. If you have some doubts about this, why should the Senate ratify it?

Mr. JOHNSTON. We have been wanting to get this to your attention for some time, and we hope that this would be an opportunity for that. However, we also want to make sure that enough countries are ratifying it that the United States will see prospects on the export side which would justify the changes that we are making on the import side. And many of those countries are waiting to see if the United States is interested in this instrument.

Senator MATHIAS. So you are not able to tell us when there will be a formal submission then?

Mr. JOHNSTON. We have made a formal submission to the Senate.

Senator MATHIAS. I mean a formal deposit.

Mr. JOHNSTON. No, sir, I cannot. What we would propose in the implementing legislation is that we would hold off on depositing the ratification, that we would put the provisions immediately into effect for the blind and the handicapped people, and that we would take a reading on the progress that is being made in other countries, particularly the European Community, on whether or not they were going along with the protocol.

Senator MATHIAS. Will this not create some problems if we do it this way? With the SALT Treaty we can, by the agreement of the executives of the Soviet Union and the United States proceed to abide by the provisions of the SALT agreement without the ratification of the Senate.

But if you turn that around, will it work the same way? If you have the Senate having ratified without the signature of the United States, the formal adherence of the United States to the agreement, then where are we?

Mr. JOHNSTON. The President then would be in a position to deposit the ratification when he thought there were a sufficient number of countries.

Senator MATHIAS. Let me ask you to do this, without devoting too much time this morning to this point. Please get some of the historians in the Department of State to give us a few precedents on this particular procedure.

Mr. JOHNSTON. We would be delighted to do that.

Senator MATHIAS. There may be no objection to it, but it is new to me.

Mr. JOHNSTON. We will furnish you that.

[As of the date of publication, the information referred to had not been supplied.]

Senator MATHIAS. What is the impact of the Florence Agreement on GATT? And why does there have to be a Florence arrangement outside of GATT?

Mr. JOHNSTON. GATT is an executive agreement in which countries submit to each other tariff concessions that they are willing to make. One country may say, "I will reduce my duty on cheeses," and another country may say, "I will reduce my duty on automobiles." And when the two countries look at what they have done, they may consider that they have struck a bargain.

However, GATT does not mean that in any particular category of goods there is sure to be duty-free treatment throughout the members which are the contracting parties of GATT.

The purpose of the Florence Agreement is to look at a specific category of goods where the countries which are participating in the agreement agree that on a particular category of goods—educational, scientific, or cultural—they all would reduce the duties to zero on those specific goods. It is a supplement, if you will, looked at from the terms of GATT. There would be no objection, so far as GATT is concerned, that countries might give tariff concessions in addition to those that they are bound to in the GATT.

Senator MATHIAS. What countries or what regional groups will be the greatest importers of American materials that are covered by the protocol?

Mr. JOHNSTON. We feel the largest market for the United States essentially is the European Community.

Senator MATHIAS. Has the European Community acted on the protocol yet?

Mr. JOHNSTON. There are three countries in the Community which have deposited the instruments of ratification: Ireland, Italy, and the Netherlands. The European Community, as such, is entering into this agreement as a body. It will require ratification not only of the members states but of the European Community itself. The Community has issued some provisional implementing regulations so far. But for the Community to participate wholly will require all of the members states plus the Community acting as a body to adhere to it.

Senator MATHIAS. Paragraph 9 of the protocol seems to provide that it would not prevent a state from prohibiting the importation of articles on the grounds of national security, public order, or public morals.

Mr. JOHNSTON. It might not apply to Playboy magazine, I am not sure. [General laughter.]

Senator MATHIAS. Well, would it apply to the National Review? [General laughter.]

Mr. JOHNSTON. Mr. Chairman, I believe that we would not be trying to infringe the first amendment. I believe that that sort of item—magazines—already is duty-free in the United States.

Senator MATHIAS. It is a provision which is a mischievous one, it seems to me, dealing largely with intellectual properties to provide for this kind of screening or filter process.

Mr. JOHNSTON. Well, this is not new to this protocol, Mr. Chairman. It also exists in the Florence Agreement.

Senator MATHIAS. Well, there are ancient wrongs as well as new ones. I am not suggesting that that is novel. [Laughter.]

It seems to me to be one of the less desirable features of the protocol. Also, of course, there is a provision for developing countries to protect nascent indigenous industry.

Mr. JOHNSTON. They copied that from us, Mr. Chairman.

Senator MATHIAS. That is a felicitous phrase, "nascent indigenous industry."

Mr. JOHNSTON. We insisted on a separate protocol being added to the Florence Agreement which allowed us to put into effect section 201 of the Trade Act, which allows us in case of injury to industry to raise duties.

The developing countries, having seen what the United States has done on the Florence Agreement, decided that they wanted a provision like that in the subsequent Nairobi protocol.

Senator MATHIAS. I do not know that you can say, for example, that the film industry in India is a nascent indigenous industry, because film stars have bigger attraction in India than they do in this country. But just to use that as a hypothetical example, then if the Indians wanted to protect their film industry and if you would classify India as a developing country, the Indians would be able to do so.

Mr. JOHNSTON. Yes, sir, but so will the United States. The United States and the developing countries will be in a unique position so far as this question of being able to prevent injury is concerned.

Senator MATHIAS. So we have the same escape clause as they have?

Mr. JOHNSTON. I can submit to you the protocol that was added to the Florence Agreement. What we have is a provision that allows us to use the escape clause provisions in the U.S. trade legislation. That is also incorporated in this protocol.

Senator MATHIAS. Well, now, do all the developed countries have such an escape clause?

Mr. JOHNSTON. No, sir. The protocol that was added to the Florence Agreement applies only to the United States.

Senator MATHIAS. And the European Community, for example, has accepted that?

Mr. JOHNSTON. Just a moment, please.

[Pause.]

Mr. JOHNSTON. I think when we put ours in, in essence we gave license to others to do the same thing vis-a-vis the United States. Yes, we did.

Senator MATHIAS. We will look at that question.

Mr. JOHNSTON. Shall we submit to you that protocol?

Senator MATHIAS. I think that would be useful, yes, so that we could take a further look at it.

[The information referred to follows:]

PROTOCOL TO THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS

The contracting States parties to the Agreement on the Importation of Educational, Scientific and Cultural Materials, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its fifth session held in Florence in 1950,

Reaffirming the principles on which the Agreement, hereinafter called "the Agreement", is based,

Considering that this Agreement has proved to be an effective instrument in lowering customs barriers and reducing other economic restrictions that impede the exchange of ideas and knowledge,

Considering, nevertheless, that in the quarter of a century following the adoption of the Agreement, technical progress has changed the ways and means of transmitting information and knowledge, which is the fundamental objective of that Agreement,

Considering, further, that the developments that have taken place in the field of international trade during this period have, in general, been reflected in greater freedom of exchanges,

Considering that since the adoption of the Agreement, the international situation has changed radically owing to the development of the international community, in particular through the accession of many States to independence,

Considering that the needs and concerns of the developing countries should be taken into consideration, with a view to giving them easier and less costly access to education, science, technology and culture,

Recalling the provisions of the Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, adopted by the General Conference of UNESCO in 1970, and those of the Convention concerning the protection of the world cultural and natural heritage, adopted by the General Conference in 1972,

Recalling, moreover, the customs conventions concluded under the auspices of the Customs Co-operation Council, in consultation with the United Nations Educational, Scientific and Cultural Organization, concerning the temporary importation of educational, scientific and cultural materials,

Convinced that new arrangements should be made and that such arrangements will contribute even more effectively to the development of education, science and culture which constitute the essential bases of economic and social progress,

Recalling resolution 4.112 adopted by the General Conference of UNESCO at its eighteenth session,

Have agreed as follows:

I

1. The contracting States undertake to extend to the materials listed in annexes A, B, D and E and also, where the annexes in question have not been the subject of a declaration under paragraph 16(a) below, annexes C.1, F, G and H, to the present Protocol exemption from customs duties and other charges on, or in connexion with, their importation, as set out in article I, paragraph 1, of the Agreement, provided such materials fulfil the conditions laid down in these annexes and are the products of another contracting State.

2. The provisions of paragraph 1 of this Protocol shall not prevent any contracting State from levying on imported materials:

(a) internal taxes or any other internal charges of any kind, imposed at the time of importation or subsequently, not exceeding those applied directly or indirectly to like domestic products;

(b) fees and charges, other than customs duties, imposed by governmental or administrative authorities on, or in connexion with, importation, limited in amount to the approximate cost of the services rendered, and representing neither an indirect protection to domestic products nor a taxation of imports for revenue purposes.

II

3. Notwithstanding paragraph 2(a) of this Protocol, the contracting States undertake not to levy on the materials listed below any internal taxes or other internal charges of any kind, imposed at the time of importation or subsequently:

(a) books and publications consigned to the libraries referred to in paragraph 5 of this Protocol;

(b) official, parliamentary and administrative documents published in their country of origin;

(c) books and publications of the United Nations or any of its specialized agencies;

(d) books and publications received by the United Nations Educational, Scientific and Cultural Organization and distributed free of charge by it or under its supervision;

(e) publications intended to promote tourist travel outside the country of importation, sent and distributed free of charge;

(f) articles for the blind and other physically and mentally handicapped persons:

(i) books, publications and documents of all kinds in raised characters for the blind;

(ii) other articles specially designed for the educational, scientific or cultural advancement of the blind and other physically or mentally handicapped persons which are imported directly by institutions or organizations concerned with the education of, or assistance to the blind and other physically or mentally handicapped persons approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

III

4. The contracting States undertake not to levy on the articles and materials referred to in the annexes to this Protocol any customs duties, export duties or duties levied on goods leaving the country, or other internal taxes of any kind, levied on such articles and materials when they are intended for export to other contracting States.

IV

5. The contracting States undertake to extend the granting of the necessary licences and/or foreign exchange provided for in article II, paragraph 1, of the Agreement, to the importation of the following materials:

(a) books and publications consigned to libraries serving the public interest, including the following:

(i) national libraries and other major research libraries;

(ii) general and specialized academic libraries, including university libraries, college libraries, institute libraries and university extra-mural libraries;

(iii) public libraries;

(iv) school libraries;

(v) special libraries serving a group of readers who form an entity, having particular and identifiable subjects of interest, such as government libraries, public authority libraries, industrial libraries and libraries of professional bodies;

(vi) libraries for the handicapped and for readers who are unable to move around, such as libraries for the blind, hospital libraries and prison libraries;

(vii) music libraries, including record libraries;

(b) books adopted or recommended as textbooks in higher educational establishments and imported by such establishments;

(c) books in foreign languages, with the exception of books in the principal native language or languages of the importing country;

(d) films, slides, video-tapes and sound recordings of an educational, scientific or cultural nature, imported by organizations approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

V

6. The contracting States undertake to extend the granting of the facilities provided for in article III of the Agreement to materials and furniture imported exclusively for showing at a public exhibition of objects of an educational, scientific or cultural nature approved by the competent authorities of the importing country and for subsequent re-exportation.

7. Nothing in the foregoing paragraph shall prevent the authorities of an importing country from taking such steps as may be necessary to ensure that the materials and furniture in question will in fact be re-exported at the close of the exhibition.

VI

8. The contracting States undertake:

(a) to extend to the importation of the articles covered by the present Protocol the provisions of article IV of the Agreement;

(b) to encourage through appropriate measures the free flow and distribution of educational, scientific and cultural objects and materials produced in the developing countries.

VII

9. Nothing in this Protocol shall affect the right of contracting States to take measures, in conformity with their legislation, to prohibit or limit the importation of articles, or their circulation after importation, on grounds relating directly to national security, public order or public morals.

10. Notwithstanding other provisions of this Protocol, a developing country, which is defined as such by the practice established by the General Assembly of the United Nations and which is a party to the Protocol, may suspend or limit the obligations under this Protocol relating to importation of any object or material if such importation causes or threatens to cause serious injury to the nascent indigenous industry in that developing country. The country concerned shall implement such action in a non-discriminatory manner. It shall notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of any such action, as far as practicable in advance of implementation, and the Director-General of the United Nations Educational, Scientific and Cultural Organization shall notify all Parties to the Protocol.

11. This Protocol shall not modify or affect the laws and regulations of any contracting State or any of its international treaties, conventions, agreements or proclamations, with respect to copyright, trade marks or patents.

12. Subject to the provisions of any previous conventions to which they may have subscribed for the settlement of disputes, the contracting States undertake to have recourse to negotiation or conciliation with a view to settlement of any disputes regarding the interpretation or the application of this Protocol.

13. In case of a dispute between contracting States relating to the educational, scientific or cultural character of imported materials, the interested parties may, by common agreement refer it to the Director-General of the United Nations Educational, Scientific and Cultural Organization for an advisory opinion.

VIII

14. (a) This Protocol, of which the English and French texts are equally authentic, shall bear today's date and shall be open to signature by all States Parties to the Agreement, as well as by customs or economic unions, provided that all the member States constituting them are also Parties to the Protocol.

The term "State" or "Country" as used in this Protocol, or in the Protocol referred to in paragraph 18, shall be taken to refer also, as the context may require, to the customs or economic unions and, in all matters which fall within their competence with regard to the scope of this Protocol, to the whole of the territories of the member States which constitute them, and not to the territory of each of those States.

It is understood that, in becoming a contracting Party to this Protocol, such customs or economic unions will also apply the provisions of the Agreement on the same basis as is provided in the preceding paragraph with respect to the Protocol.

(b) This Protocol shall be subject to ratification or acceptance by the signatory States in accordance with their respective constitutional procedures.

(c) The instruments of ratification or acceptance shall be deposited with the Secretary-General of the United Nations.

15. (a) The States referred to in paragraph 14 (a) which are not signatories of this Protocol may accede to this Protocol.

(b) Accession shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations.

16. (a) The States referred to in paragraph 14 (a) of this Protocol may, at the time of signature, ratification, acceptance or accession, declare that they will not be bound by part II, part IV, annex C.1, annex F, annex G and annex H, or by any of those parts or annexes. They may also declare that they will be bound by annex C.1 only in respect of contracting States which have themselves accepted that annex.

(b) Any contracting State which has made such a declaration may withdraw it, in whole or in part, at any time by notification to the Secretary-General of the United Nations, specifying the date on which such withdrawal takes effect.

(c) States which have declared, in accordance with subparagraph (a) of this paragraph, that they will not be bound by annex C.1 shall necessarily be bound by annex C.2. Those which have declared that they will be bound by annex C.1 only in respect of contracting States which have themselves accepted that annex shall necessarily be bound by annex C.2 in respect of contracting States which have not accepted annex C.1.

17. (a) This Protocol shall come into force six months after the date of deposit of the fifth instrument of ratification, acceptance or accession with the Secretary-General of the United Nations.

(b) It shall come into force for every other State six months after the date of the deposit of its instrument of ratification, acceptance or accession.

(c) Within one month following the expiration of the periods mentioned in sub-paragraphs (a) and (b) of this paragraph, the contracting States to this Protocol shall submit a report to the United Nations Educational, Scientific and Cultural Organization on the measures which they have taken to give full effect to the Protocol.

(d) The United Nations Educational, Scientific and Cultural Organization shall transmit these reports to all States Parties to this Protocol.

18. The Protocol annexed to the Agreement, and made an integral part thereof, as provided for in article XVII of the Agreement, is hereby made an integral part of this Protocol and shall apply to obligations incurred under this Protocol and to products covered by this Protocol.

19. (a) Two years after the date of the coming into force of this Protocol, any contracting State may denounce this Protocol by an instrument in writing deposited with the Secretary-General of the United Nations.

(b) The denunciation shall take effect one year after the receipt of the instrument of denunciation.

(c) Denunciation of the Agreement pursuant to article XIV thereof shall automatically imply denunciation of this Protocol.

20. The Secretary-General of the United Nations shall inform the States referred to in paragraph 14(a), as well as the United Nations Educational, Scientific and Cultural Organization, of the deposit of all the instruments of ratification, acceptance or accession referred to in paragraphs 14 and 15; of declarations made and withdrawn under paragraph 16 of the dates of entry into force of this Protocol in accordance with paragraph 17 (a) and (b); and of the denunciations provided for in paragraph 19.

21. (a) This Protocol may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision, however, shall be binding only upon States that become parties to the revising Protocol.

(b) Should the General Conference adopt a new protocol revising this Protocol either totally or in part, and unless the new protocol provides otherwise, the present Protocol shall cease to be open to signature, ratification, acceptance or accession as from the date of the coming into force of the new revising protocol.

22. This Protocol shall not change or modify the Agreement.

23. Annexes A, B, C.1, C.2, D, E, F, G and H are hereby made an integral part of this Protocol.

24. In accordance with Article 102 of the Charter of the United Nations, this Protocol shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

In faith whereof the undersigned, duly authorized, have signed this Protocol on behalf of their respective Governments.

Done at United Nations Headquarters, New York, this first day of March one thousand nine hundred and seventy-seven, in a single copy.

ANNEX A

Books, publications and documents

(i) Printed books, irrespective of the language in which they are printed and whatever the amount of space given over to illustrations, including the following:

(a) luxury editions;

(b) books printed abroad from the manuscript of an author resident in the importing country;

(c) children's drawing and painting books;

(d) school exercise books (workbooks) with printed texts and blank spaces to be filled in by the pupils;

(e) crossword puzzle books containing printed texts;

(f) loose illustrations and printed pages in the form of loose or bound sheets and reproduction proofs or reproduction films to be used for the production of books.

(ii) Printed documents or reports of a non-commercial character.

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(iii) Microforms of the articles listed under items (i) and (ii) of this annex, as well as of those listed under items (i) to (vi) of annex A to the agreement.

(iv) Catalogues of films, recordings or other visual and auditory material of an educational, scientific or cultural character.

(v) Maps and charts of interest in scientific fields such as geology, zoology, botany, mineralogy, paleontology, archeology, ethnology, meteorology, climatology and geophysics, and also meteorological and geophysical diagrams.

(vi) Architectural, industrial or engineering plans and designs and reproductions thereof.

(vii) Bibliographical information material for distribution free of charge.

ANNEX B

Works of art and collectors' pieces of an educational, scientific or cultural character

(i) Paintings and drawings, whatever the nature of the materials on which they have been executed entirely by hand, including copies executed by hand, but excluding manufactured decorated wares.

(ii) Ceramics and mosaics on wood, being original works of art.

(iii) Collectors' pieces and objects of art consigned to galleries, museums and other institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of those types of materials, on condition they are not resold.

ANNEX C.1

Visual and auditory materials

(i) Films,[1] filmstrips, microforms and slides.

(ii) Sound recordings.

(iii) Patterns, models and wall charts of an educational, scientific or cultural character, except toy models.

(iv) Other visual and auditory materials, such as:

(a) video-tapes, kinescopes, video-discs, videograms and other forms of visual and sound recordings;

(b) microcards, microfiches and magnetic or other information storage required in computerized information and documentation services;

(c) materials for programmed instruction, which may be presented in kit form, with the corresponding printed materials, including video-cassettes and audio-cassettes;

(d) transparencies, including those intended for direct projection or for viewing through optical devices;

(e) holograms for laser projection;

(f) mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae;

(g) multi-media kits;

(h) materials for the promotion of tourism, including those produced by private concerns, designed to encourage the public to travel outside the country of importation.

(The exemptions provided for in the present annex C.1 shall not apply to:)

(a) unused microform stock and unused visual and auditory recording media and their specific packaging such as cassettes, cartridges, reels;

(b) visual and auditory recordings with the exception of materials for the promotion of tourism covered by paragraph (iv) (h), produced by or for a private commercial enterprise, essentially for advertising purposes;

(c) visual and auditory recordings in which the advertising matter is in excess of 25 per cent by time. In the case of the materials for the promotion of tourism covered by paragraph (iv) (h), this percentage applies only to private commercial publicity.)

ANNEX C.2

Visual and auditory materials of an educational, scientific or cultural character

Visual and auditory materials of an educational, scientific or cultural character, when imported by organizations (including, at the discretion of the importing country, broadcasting and television organizations) or by any other public or

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[1] The duty-free entry of exposed and developed cinematographic films for public commercial exhibition or sale may be limited to negatives, it being understood that this limitation shall not apply to films (including newsreels) when admitted duty-free under the provisions of annex C.2 to this Protocol.

private institution or association, approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of materials or when produced by the United Nations or any of its specialized agencies and including the following:

(i) films, filmstrips, microfilms and slides;

(ii) newsreels (with or without sound track) depicting events of current news value at the time of importation, and imported in either negative form, exposed and developed, or positive form, printed and developed, it being understood that duty-free entry may be limited to two copies of each subject for copying purposes;

(iii) archival film material (with or without sound track) intended for use connexion with newsreel films;

(iv) recreational films particularly suited for children and youth;

(v) sound recordings;

(vi) video-tapes, kinescopes, video-discs, videograms and other forms of visual and sound recordings;

(vii) microcards, microfiches and magnetic or other information storage media required in computerized information and documentation services;

(viii) materials for programmed instruction, which may be presented in kit form, with the corresponding printed materials, including video-cassettes and audio-cassettes;

(ix) transparencies, including those intended for direct projection or for viewing through optical devices;

(x) holograms for laser projection;

(xi) mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae;

(xii) multi-media kits.

ANNEX D

Scientific instruments or apparatus

(i) Scientific instruments or apparatus, provided:

(a) that they are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used for non-commercial purposes under the control and responsibility of these institutions;

(b) that instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation.

(ii) Spare parts, components or accessories specifically matching scientific instruments or apparatus, provided these spare parts, components or accessories are imported at the same time as such instruments and apparatus, or if imported subsequently, that they are identifiable as intended for instruments or apparatus previously admitted duty-free or entitled to duty-free entry.

(iii) Tools to be used for the maintenance, checking, gauging or repair of scientific instruments, provided these tools are imported at the same time as such instruments and apparatus or, if imported subsequently, that they are identifiable as intended for the specific instruments or apparatus previously admitted duty-free or entitled to duty-free entry, and further provided that tools of equivalent scientific value are not being manufactured in the country of importation.

ANNEX E

Articles for the blind and other handicapped persons

(i) All articles specially designed for the educational, scientific or cultural advancement of the blind which are imported directly by institutions or organizations concerned with the education of, or assistance to, the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, including:

(a) talking books (discs, cassettes or other sound reproductions) and large-print books;

(b) phonographs and cassette players, specially designed or adapted for the blind and other handicapped persons and required to play the talking books;

(c) equipment for the reading of normal print by the blind and partially sighted, such as electronic reading machines, television-enlargers and optical aids;

(d) equipment for the mechanical or computerized production of braille and recorded material, such as stereo-typing machines, electronic braille, transfer and pressing machines; braille computer terminals and displays;

(e) braille paper, magnetic tapes and cassettes for the production of braille and talking books;

(f) aids for improving the mobility of the blind, such as electronic orientation and obstacle detection appliances and white canes;

(g) technical aids for the education, rehabilitation, vocational training and employment of the blind, such as braille watches, braille typewriters, teaching and learning aids, games and other instruments specifically adapted for the use of the blind.

(ii) All materials specially designed for the education, employment and social advancement of other physically or mentally handicapped persons, directly imported by institutions or organizations concerned with the education of, or assistance to, such persons, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent objects are not being manufactured in the importing country.

ANNEX F

Sports equipment

Sports equipment intended exclusively for amateur sports associations or groups approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent materials are not being manufactured in the importing country.

ANNEX G

Musical instruments and other musical equipment

Musical instruments and other musical equipment intended solely for cultural institutions or music schools approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent instruments and other equipment are not being manufactured in the importing country.

ANNEX H

Material and machines used for the production of books, publications and documents

(i) Material used for the production of books, publications and documents (paper pulp, recycled paper, newsprint and other types of paper used for printing, printing inks, glue, etc.).

(ii) Machines for the processing of paper pulp and paper and also printing and binding machines, provided that machines of equivalent technical quality are not being manufactured in the importing country.

For Afghanistan:

For Albania:

For Algeria:

For Angola:

For Argentina:

For Australia:

For Austria:

For Bahrain:

For Bangladesh:

For Barbados:

For Belgium:

For Benin:

For Bolivia:

For Brazil:

For Bulgaria:

For Burma:

For Burundi:

For the Byelorussian Soviet Socialist Republic:

For Canada:

For the Central African Empire:

For Chad:

For Chile:

For China:

For Colombia:

For the Congo:

For Costa Rica:

For Cuba:

For Cyprus:

For Czechoslovakia:

For Democratic Kampuchea:

For the Democratic People's Republic of Korea:

For Democratic Yemen:

For Denmark:

For the Dominican Republic:

For Ecuador:

For Egypt:

For El Salvador:

For Ethiopia:

For Fiji:

For Finland:

For France:

For Gabon:

For Gambia:

For the German Democratic Republic:

For Germany, Federal Republic of:

For Ghana:

For Greece:

For Grenada:

For Guatemala:

For Guinea:

For Guinea-Bissau:

For Guyana:

For Haiti:

For Honduras:

For Hungary:

For Iceland:

For India:

For Indonesia:

For Iran:

For Iraq:

For Ireland:

For Israel:

For Italy:

For the Ivory Coast:

For Jamaica:

For Japan:

For Jordan:

For Kenya:

For Kuwait:

For the Lao People's Democratic Republic:

For Lebanon:

For Lesotho:

For Liberia:

For the Libyan Arab Republic.

For Luxembourg:

For Madagascar:

For Malawi:

For Malaysia:

For Mali:

For Malta:

For Mauritania:

For Mauritius:

For Mexico:

For Monaco:

For Mongolia:

For Morocco:

For Mozambique:

For Nepal:

For the Netherlands:

For New Zealand:

For Nicaragua:

For the Niger:

For Nigeria:

For Norway:

For Oman:

For Pakistan:

For Panama:

For Papua New Guinea:

For Paraguay:

For Peru:

For the Philippines:

For Poland:

For Portugal:

For Qatar:

For the Republic of Korea:

For Romania:

For Rwanda:

For San Marino:

For Saudi Arabia:

For Senegal:

For Seychelles:

For Sierra Leone:

For Singapore:

For the Socialist Republic of Viet Nam:

For Somalia:

For Spain:

For Sri Lanka:

For the Sudan:

For Surinam:

For Sweden:

For Switzerland:

For the Syrian Arab Republic:

For Thailand:

For Togo:

For Trinidad and Tobago:

For Tunisia:

For Turkey:

For Uganda:

For the Ukrainian Soviet Socialist Republic:

For the Union of Soviet Socialist Republics:

For the United Arab Emirates:

For the United Kingdom of Great Britain and Northern Ireland:

For the United Republic of Cameroon:

For the United Republic of Tanzania:

For the United States of America;

For the Upper Volta:

For Uruguay:

For Venezuela:

For Yemen:

For Yugoslavia:

For Zaire:

For Zambia:

I hereby certify that the foregoing text is a true copy of the Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its nineteenth session, held at Nairobi from 26 October 1976 to 30 November 1976, the original of which is deposited with the Secretary-General of the United Nations.

For the Secretary-General:

THE LEGAL COUNSEL.

UNITED NATIONS, NEW YORK, *1 March 1977.*

Senator MATHIAS. The other question that you will submit is something on this procedure by which we ratify before the Executive has acted finally.

Mr. JOHNSTON. Yes, sir.

Senator MATHIAS. I think that requires a little thought.

Mr. JOHNSTON. Yes, sir, we will do that.

Senator MATHIAS. Do you have anything further that you want to say on this subject?

Mr. JOHNSTON. No, sir, I do not.

Senator MATHIAS. Mr. Johnston, we are very grateful to you for being here.

Mr. JOHNSTON. Thank you, sir.

Senator MATHIAS. However, I am afraid that you have opened up a whole new avenue of problems, of which we were happily ignorant before you arrived today. But when we get your supporting material, it will all be resolved, no doubt.

Thank you very much.

Since Mr. Johnston is the only witness scheduled for today, our business is concluded. The committee will stand in adjournment. subject to call of the Chair.

[Whereupon, at 10:30 a.m., the committee adjourned, subject to call of the Chair.]

APPENDIX

AMERICAN FOUNDATION FOR THE BLIND, INC.,
Washington, D.C., March 9, 1981.

Senator CHARLES PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As a member organization of the World Council for the Welfare of the Blind, the American Foundation for the Blind is pleased to learn of the referral to your committee of the Protocol to the (Florence) Agreement on the Importation of Educationl, Scientific, and Cultural Materials.

In the President's letter of transmittal to the Senate, he stated that "the purpose of the original Agreement was to facilitate the international flow of educational, scientific, and cultural materials, and generally the exchange of ideas, through the extension of duty-free treatment to arrange of such educational, scientific, and cultural materials. The present Protocol substantially broadens the list of eligible products, including those for the advancement of the blind and other handicapped persons."

The American Foundation for the Blind strongly supports ratification of the Protocol, sharing the President's stated belief that it "will result in important benefits for the blind and handicapped in this country."

We therefore respectfully urge your early and favorable consideration of the Protocol, with our recommendation that the Senate advise and consent to its ratification.

Sincerely,

WILLIAM F. GALLAGHER.

CANADIAN FILM DEVELOPMENT CORP.,
Toronto, Canada, March 6, 1981.

Re The Florence Agreement on the Importation of Educational, Scientific, and Cultural Material and the Nairobi Protocol: Your Document No. 97–2.

CHAIRMAN,
Senate Committee on Foreign Relations,
Washington, D.C.

DEAR SIR/MADAM: I understand that this Agreement was referred to the Senate on January 19, 1981 for its advice, and possible consent.

This Corporation is particularly interested in those parts of the Agreement and Protocol which refer to films. I would therefore appreciate it if you could keep me informed of when your hearings, if any, are scheduled to begin. I would also appreciate receiving a copy of the proceedings, if one is printed.

Thank you for your attention.

HEATHER MITCHELL, *Counsel.*

JEM RECORDS, INC.,
South Plainfield, N.J., August 31, 1981.

Re Nairobi Protocol Treaty Doc. No. 97-2.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing you to express my hope that your Committee will schedule consideration of the Nairobi Protocol at the earliest possible date, and report it favorably to the Senate floor in order that it may go into effect as soon as possible. Although implementing legislation is also required, I feel that early favorable action by your Committee will give a tremendous boost toward early passage of that legislation.

It is impossible for me to imagine any opposition to ratification of this Protocol, which provides for duty-free treatment for imports of educational scientific and cultural materials—especially materials to be used by disabled persons. This being the International Year of Disabled Persons (IYDP), it would certainly be a tribute to our national participation in that Year to ratify this Protocol and pass implementing legislation during 1981. And of course there is not much time left.

The Florence Agreement, to which this document is a Protocol, has received bi-partisan support ever since its adoption by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) in 1950. The Nairobi Protocol was negotiated in 1976 under President Ford. Surely there must be a way for this Protocol to be ratified and implemented without any further delays—which are so totally undeserved by its beneficiaries.

Respectfully,

EDWARD J. GROSSI, *Vice President.*

ASSOCIATION OF AMERICAN UNIVERSITY PRESSES, INC.,
New York, N.Y., September 10, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: It has come to the attention of this Association that on the first of September the Deputy Permanent Representative of the United States to the United Nations, Kenneth Adelman, placed his signature on the Protocol to the Florence Agreement on the importation of educational, scientific, and cultural materials. He did so at the direction of the Secretary of State. We also understand that in conjunction with the Secretary's directive, the Department of State has submitted a draft of implementing legislation to carry out the provisions of the Protocol to the Office of Management and Budget, for clearance with other government departments and agencies.

The Protocol in question is of direct concern to the 78 member presses of this Association, who publish scholarly books and disseminate them both at home and abroad. The revisions to the Florence Protocol adopted in 1976, and opened for signature at the U.N. for the past four years, would greatly facilitate the exchange of scholarly materials in general, and the exportation of scholarly books published in the U.S. in particular. We therefore commend the Florence Protocol to your attention, and urge your committee to recommend that the Senate ratify the Protocol as an international treaty.

What we are calling to the attention of your committee would include those optional provisions recommended to the Senate by the Secretary of State in Senate Treaty Document No. 97-2, 97th Congress, 1st Session, January 19, 1981. We trust that the implementing legislation will soon reach your committee and that you will find it possible to schedule public hearings on the Protocol within this calendar year. The AAUP would welcome the opportunity, if called upon to express its support for the Protocol in such hearings, either in oral testimony or, in a written statement. Such testimony would not, in any case, be difficult to obtain, for the Protocol already enjoys the overwhelming support of all business, educational, professional, and scholarly organizations concerned with the materials affected by it.

I thank you in advance for your consideration of this matter.

Sincerely yours,

RICHARD KOFFLER, *Executive Director.*

AMERICAN LIBRARY ASSOCIATION,
Chicago, Ill., September 15, 1981.

Hon. CHARLES PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that on September 1 the Deputy Permanent Representative of the United States to the United Nations at the direction of the Secretary of State signed the Protocol to the Florence Agreement (Agreement on the Importation of Educational, Scientific, and Cultural Materials). We further understand that the Department of State has submitted a draft of implementing legislation to carry out the provisions of the Protocol to the Office of Management and Budget for clearance with other government departments and agencies.

This is, therefore, an appropriate time to reiterate our support for U.S. ratification of the Protocol including those optional provisions recommended to the Senate by the Secretary of State in Senate Treaty Document No. 97–2, 97th Congress, 1st Session, January 19, 1981. We trust that the implementing legislation will soon reach your committee and that you will find it possible to schedule public hearings on the Protocol in 1981. The American Library Association would like the opportunity to express its support for the Protocol in such hearings, either in oral testimony or in a written statement. It is our understanding that there is overwhelming support for the Protocol by all business, educational, professional, and scholarly organizations concerned with the materials affected by the Protocol.

Your consideration of these opinions is appreciated.

Sincerely,

ROBERT WEDGEWORTH, *Executive Director.*

ASSOCIATION OF AMERICAN PUBLISHERS, INC.,
Washington, D.C., September 8, 1981.

Hon. CHARLES H. PERCY,
Chairman, Senate Committee on Foreign Relations,
Senate Office Building, Washington, D.C.

DEAR CHAIRMAN PERCY: We are writing this letter to urge you to schedule hearings early on the Protocol to the Florence Agreement on the importation of educational, scientific and cultural materials which was signed September 1, 1981 in New York by the U.S. Deputy Permanent Representative to the United Nations, Kenneth Adelman.

The Association of American Publishers has long supported this Protocol because we believe that it will significantly improve the flow of educational, scientific and cultural materials to the American public at a greatly reduced cost.

We believe the Protocol represents a major step forward in the further removal or reduction of barriers in international trade for educational, scientific and cultural materials. We would be pleased to appear in support of this important Protocol when the hearings are held.

Sincerely,

TOWNSEND HOOPES.

RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.,
New York, N.Y., September 8, 1981.

Re Florence Agreement Protocol.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: We have the honor to present on behalf of the Recording Industry Association of America, whose members account for over 85% of all recordings manufactured and sold in the United States, a request that the United States Senate undertake the prompt ratification of the Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials, known as the "Florence Agreement". The Florence Agreement Protocol which was transmitted to our Government by UNESCO in March, 1977, by virtue of Annex C.1 of the Protocol, would equate thereunder sound recordings with books. We

understand that on September 1, 1981, the United States Deputy Permanent Representative to the United Nations, Mr. Kenneth Adelman, signed the Protocol.

Under the terms of the Agreement now in force, books, publications (including sheet music and musical scores) and certain other documents and materials benefit from exemption from customs duties and easing of foreign exchange and licensing control in the Contracting States. The exemption extended to books and other publications is not subject to any qualification as to their educational, scientific or cultural character.

On the other hand, sound recordings only benefit from the advantages of the current Agreement if they are approved as having an educational, scientific or cultural character and are imported by an approved institution or organization. Annex C. 1 of the Protocol would remove these requirements for sound recordings.

A brief analysis of the import duties imposed on sound recordings by the various signatory countries reveals that their current import duties on sound recordings are far in excess of the modest duty imposed by the United States. In essence then, the United States Sound Recording Industry can only benefit from the elimination of all import duties. In addition, our Government's balance of payments will be proportionately improved by virtue of increased exports of sound recordings.

The domestic recording industry believes that sound recordings should be recognized as being as important an instrument for conveying culture as books. This belief has been expressed by the Congress and by the State Department. For example, in 1938 there being no excise tax on books, the House Ways and Means subcommittee in recommending the repeal of the excise tax on phonograph records reported: ". . . since the product is used to a considerable extent for educational and cultural purposes, its (excise) tax continuation is deemed undesirable." The Congress followed this recommendation. Secretary of State, John Foster Dulles, in equating music with books, told Congress: "It is important . . . that America send its culture abroad, as well as its men, its money and its arms. For it is through our culture—our books, our artists, our musicians and our theatre—that we can best win the minds of free men in Europe, in Africa, in South America and throughout Asia." The ensuing State Department goodwill tours by such jazz artists as the late Louis Armstrong and Lionel Hampton were outstanding successes largely because people throughout the world had become familiar with their work through phonograph records. In recognition of the cultural, educational and historical values of sound recordings, on February 29, 1970, the White House Record Library was established as a counterpart of the famous White House Book Library created more than 40 years ago.

The interrelationship of the various artistic media has its effects on the public. The public reads a play and its appetite is whetted to see the play performed or hear it on a record. The public buys a book, sees the film version and buys the recorded soundtrack. The public hears a song on a record and buys the sheet music to play it on a piano or organ or guitar.

Taken as a whole, therefore, sound recordings, in common with print media, meet a vital demand of the human race and their intrinsic cultural value should be recognized in order that they may be given equal treatment with books as proposed in the Protocol to the Florence Agreement.

The Recording Industry Association of America has strongly supported the Florence Agreement Protocol. We hope that the Sneate will act favorably on the protocol, which has the endorsement of many organizations and no known opposition, in this session of Congress.

Our industry is pleased to offer its cooperation and services to assist your Committee in any way you may deem appropriate.

Sincerely,

STANLEY M. GORTIKOV.

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